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AJW Qualified Partners, LLC, and New Millennium Capital Partners II, LLC

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AJW PARTNERS, LLC, AJW OFFSHORE, LTD,  
AJW QUALIFIED PARTNERS, LLC, and NEW  
MILLENNIUM CAPITAL PARTNERS II, LLC,

Plaintiffs,

-against-

CYBERLUX CORPORATION and  
DONALD F. EVANS,

Defendants.

Case No. 07-CV-8367

ECF CASE

DECLARATION OF  
THOMAS J. FLEMING

THOMAS J. FLEMING, declares under the penalties of perjury, pursuant to 28 U.S.C. § 1746 that:

1. I am an attorney in good standing with the State of New York, admitted to practice before this Court, and a member of the law firm Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York, New York 10022, attorneys for plaintiffs AJW Partners, LLC, AJW Offshore, Ltd., AJW Qualified Partners, LLC, and New Millennium Capital Partners II, LLC (collectively, the “Plaintiffs”) in this action.

2. I submit this declaration in support of Plaintiffs’ motion for a preliminary injunction and for the purpose of bringing to the Court’s attention documents that it may

consider in determining this motion. Such documents consist of the complaint filed by defendant Cyberlux Corporation (“Cyberlux”) against Plaintiffs in this Court and certain public filings that Cyberlux has made with the United States Securities and Exchange Commission.

3. Annexed as Exhibit A is a true and correct copy of the complaint that Cyberlux filed on September 4, 2007, in its action number 07 CV 7808, now pending in this Court. Cyberlux admits on Paragraph 38 of such complaint that it failed to honor certain notices of conversion submitted to it by the Plaintiffs.

4. Annexed as Exhibit B is a true and correct copy of excerpts from Cyberlux’s Quarterly Report on Form 10-QSB for the quarter ended September 30, 2007.

5. Cyberlux admits in such documents that in the nine months ending September 30, 2007, it generated revenue of \$521,814 with a net operating loss of \$2,885,113. (Ex. B, p.4) In this time period, it generated negative operating cash flows of \$1,793,351 and had an ending cash balance of just \$1,630. In fact, Cyberlux had a cash overdraft of \$68,348. (Ex. B, p.5)

6. Additionally, Cyberlux admits that its “current liabilities exceeded its current assets by \$3,891,035 as of September 30, 2007.” (Ex. B, p.21) Cyberlux has advised the investing public that it has only continued to exist by continuing to obtain financing, and there can be no assurance of any additional equity or debt financing being obtained by Cyberlux. (Ex. B, pp. 21, 25) Cyberlux has conceded in its most recent 10-QSB filing that “[t]hese factors among others may indicate that the Company will be unable to continue as a going concern for a reasonable period of time.” (Ex. B, p.21) Additionally, Cyberlux has conceded in its most recent 10-QSB filing that its independent

accountant has noted that such factors "may raise substantial doubt about [Cyberlux's] ability to continue as a going concern." (Ex. B, p.25)

7. Annexed as Exhibit C is a true and correct copy of the Form DEF 14-C, filed by Cyberlux on January 3, 2008. In such filing, Cyberlux reported that it has authorized the issuance of 250,000,000 additional shares of common stock, increasing its authorized shares from 700,000,000 to 950,000,000. It also discusses that as of December 7, 2007, Cyberlux had 552,142,881 shares outstanding.

8. I have annexed as Exhibit D a printout from Yahoo!Finance for Cyberlux showing volume and price information as of March 6, 2008.

Dated: March 6, 2008

/s/ Thomas J. Fleming  
THOMAS J. FLEMING